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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,097	03/31/2004	Adam Iredell Hayden	1671-0297	7290
28078	7590	05/04/2007		
MAGINOT, MOORE & BECK, LLP			EXAMINER	
CHASE TOWER			SCHILLINGER, ANN M	
111 MONUMENT CIRCLE				
SUITE 3250			ART UNIT	
INDIANAPOLIS, IN 46204			PAPER NUMBER	
			3738	
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			05/04/2007	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/814,097

Applicant(s)

HAYDEN ET AL.

Examiner

Ann Schillinger

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 4-9, 11, 12, 15-30, 32-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10, 13, 14 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/31/04, 9/15/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment A

Art Unit: 3738

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 4-9, 11, 12, 15-30, 32-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Group I, species A, C-N and Group II there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/9/2007.

Applicant traverses the Species election requirement. However, under 37 CFR 1.146, in Chapter 800 of the MPEP, the examiner may subject Applicant to a species restriction. The MPEP states that the Applicant is allowed one invention per application, and the separate statutory classes of the inventions require a restriction. The separate species are substantiated because of the mutually exclusive characteristics that were described by the examiner in the previous office action. The requirement is thus still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 10, 13, 14, and 31 rejected under 35 U.S.C. 102(e) as being anticipated by Burkinshaw (US Pat. No. 6602292). Burkinshaw discloses the following of claim 1: a patellar prosthesis comprising: a first subcomponent (42); a boss (66, 68, 70) operably connected to the

Art Unit: 3738

first subcomponent; and a second subcomponent (40) operably connected to the boss, the second subcomponent comprising, a first side (lower side of element 40), the first side having (i) a channel therein (46), (ii) a boss retaining region (see Attachment A) operable to retain the boss within the channel when the boss is inserted into the channel, and (iii) a boss assembly region (44) operable to facilitate the insertion of the boss into the channel (see Figure 1).

Burkinshaw discloses the following of claim 2: the patellar prosthesis of claim 1, wherein the first subcomponent comprises a base (74, 76) and wherein the second subcomponent comprises an articulating subcomponent (col. 4, lines 1-7).

Burkinshaw discloses the following of claim 3: the patellar prosthesis of claim 1, wherein: the boss comprises a stem (66) and a head (68) having a width (see Figure 5); the channel has a first side (left side) and a second side (right side), the second side spaced apart from the first side by a first distance (see Figure 6); and the boss retaining region comprises a lip, a first section having width and a second section having a width, the first section of the lip located on the first side of the channel and the second section of the lip located on the second side of the channel, the width of the head being greater than the first distance of the channel minus the width of the first section of the lip and minus the width of the second section of the lip (see Attachment A, Figures 1, 3, 5).

Burkinshaw discloses the following of claim 10: the patellar prosthesis of claim 1, further comprising: a spin stop (56) operably connected to the first subcomponent, and wherein the second subcomponent further comprises: a spin stop receiving chamber (52, 54), the spin stop receiving chamber configured to receive the spin stop when the second subcomponent, boss and first subcomponent are assembled.

Burkinshaw discloses the following of claim 13: the patellar prosthesis of claim 1, wherein the boss assembly region is offset from the channel (see Figure 1).

Burkinshaw discloses the following of claim 14: the patellar prosthesis of claim 13, further comprising: a spin stop (56) operably connected to the first subcomponent, and wherein the second subcomponent further comprises: a spin stop receiving chamber (52) with a loading region (54), the loading region of the spin top chamber configured such that when the boss is being inserted into the channel through the boss assembly region, the spin stop is inserted into the spin top chamber loading region (see Figure 1).

Burkinshaw discloses the following of claim 31: a patellar replacement component base comprising: a generally planar bone contacting surface (42) lying in a first plane; a dome shaped articulating component contact surface (44) generally opposite the bone contacting surface (see Figure 1); and a boss (66, 68, 70) having a stem (66) extending from the dome shaped articulating component contact surface (when assembled, see Figure 1) along a line, the line of the stem intersecting the bone contacting surface plane at an angle of other than 90 degrees (a line drawn at a 30 degree angle from the central axis of the prosthesis will go through the articulating component contact surface and the bone contacting surface plane at an angle other than 30 degrees).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Schillinger whose telephone number is (571) 272-6652. The examiner can normally be reached on Mon. thru Fri. 9 a.m. to 4 p.m..

Art Unit: 3738

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ann Schillinger  
April 28, 2007

*A. Stewart*  
ALVIN J. STEWART  
PRIMARY EXAMINER

Attachment A

